

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Calling Party Pays Service Option in the Com-)
mercial Mobile Radio Services)

WT Docket No. 97-207

To: The Commission

REPLY COMMENTS OF BELL SOUTH

BellSouth Corporation ("BellSouth"), by its attorneys, hereby replies to those comments submitted in response to the Commission's *Notice of Inquiry* ("NOI"), WT Docket No. 97-207, FCC 97-341 (released October 23, 1997), *summarized*, 62 Fed. Reg. 58,700 (1997). The record reveals that no party argued in favor of imposing mandated Calling Party Pays ("CPP") for CMRS carriers, and that those parties advocating other CPP-related requirements failed to provide the empirical studies sought by the Commission to support their claims.¹ Accordingly, BellSouth believes the Commission should continue to leave CPP development issues to the competitive marketplace and decline to initiate a rulemaking with regard to CPP.²

DISCUSSION

BellSouth agrees with AT&T that "[t]he Commission should leave the decision whether and how to implement CPP to the competitive CMRS marketplace, which will ensure that providers respond to customer demand for a CPP service option."³ No party has demonstrated that market

¹ See *infra* notes 10-12 and accompanying text.

² See, e.g., Comments of Paging Network, Inc. ("PageNet") at 6 ("[T]he Commission should initiate no action at this time."); SBC Communications, Inc. ("SBC") at 9 ("[T]he Commission . . . should not conduct a rulemaking proceeding on CPP.").

³ Comments of AT&T Wireless Services Inc. ("AT&T") at 1. This is particularly true given the fact that domestic demand for CPP has not yet materialized and the competitive impact of CPP

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forces are or will be inadequate.⁴ To the contrary, numerous commenters have argued persuasively that competitive market forces should continue to shape the growth and development of CPP.⁵ Allowing market forces to work would be consistent with the Commission's own successful policy of minimal intervention with regard to wireless services.⁶ As PageNet notes, "the growth of the CMRS industry . . . has proceeded largely without regulatory interference. The emergence of a robust marketplace under such conditions *counsels strongly against FCC intervention with respect*

is uncertain. *See id.* at 2 (citing uncertain customer demand and public acceptance for CPP); United States Telephone Association ("USTA") at 3 (noting the competitive impact of CPP is uncertain); *see also* Cellular Telecommunications Industry Association ("CTIA") at 3.

⁴ As Motorola notes, "[t]here is little debate that the market will be more effective than a regulatory mandate in ensuring that customers' needs are satisfied." Comments of Motorola, Inc. ("Motorola") at 19.

⁵ *See, e.g.,* Comments of CTIA at 1-2, 6 (stating that "a market-based approach is absolutely essential in the consideration of CPP issues," and that "market forces, and not Commission directives, should continue to determine the ultimate development of CPP services"); GTE Service Corporation ("GTE") at 9-12 (arguing that the marketplace, and not the Commission, should determine whether CMRS providers offer CPP); Motorola at 18-19 & n.44 (asserting that the Commission should allow market forces to work rather than issuing regulations); SBC at 7-9 (recommending that the marketplace, and not federal intervention, should determine the availability of CPP); Sprint Corporation at 2 (stressing that "it should be the marketplace, not the Commission, which dictates when, where and whether CPP is implemented"); USTA at 2-5 (noting that the competitive market, and not regulation, should determine CPP availability); *see also* AT&T at 1, 3; PageNet at 6.

⁶ *See Amendment of Part 90 of the Commission's Rules*, 8 Com. Reg. (P & F) 882, 889 (1997) (stating that "[m]arket forces — not regulation — should shape the developing CMRS marketplace"); *Second Annual CMRS Report*, 12 F.C.C.R. 11267, 11272 (1997) (noting that "the CMRS market has continued to undergo major changes that have resulted in increased competition and convergence among CMRS services. The Commission has facilitated these changes by promoting flexibility for CMRS licensees by . . . eliminating unnecessary regulation"); *Implementation of Sections 3(n) and 332 of the Communications Act*, 9 F.C.C.R. 7988, 8004 (1994) (discussing the importance of "promoting opportunities for economic forces — not regulation — to shape the development of the CMRS market") (subsequent history omitted); *see also PacifiCorp Holdings, Inc.*, DA 97-2225, Report No. LB-97-49 at n.73 (rel. Oct. 17, 1997) (describing "robust competition" in the CMRS marketplace). As Bell Atlantic notes, the "model has worked well. Wireless service is competitive and is expanding rapidly There is no basis for the Commission to consider altering course and considering any imposition of regulatory burdens on carriers offering CPP." Comments of Bell Atlantic at 7.

to the wireless CPP service option.”⁷ BellSouth concurs and thus agrees with Motorola that “[c]onsistent with its preference for allowing market forces rather than regulatory requirements to shape the development of wireless services,”⁸ the Commission should avoid the issuance of regulations governing CPP.⁹

Moreover, no factual record has been established which would require the FCC to take action on CPP. In the *NOI*, the Commission agreed with CTIA that “there is a scarcity of hard data regarding the stimulative effect of CPP in the U.S.”¹⁰ Accordingly, the Commission sought to develop a factual record before determining whether to take action with regard to CPP.¹¹ The comments, however, lack hard evidence and empirical studies, and any evidence submitted is inconclusive at best.¹²

⁷ Comments of PageNet at 6 (emphasis added).

⁸ Comments of Motorola at 18-19. Indeed, competition in the wireless market has been one of communications’ greatest success stories due largely to the determinations of Congress and the Commission to allow market forces to shape the industry’s development. See Comments of CTIA at 1-2; see also *supra* note 6.

⁹ CPP is not an interconnection service, and thus no action is required by the Commission to revise its interconnection rules. See, e.g., Comments of GTE at 5-7; Sprint Corporation at 2.

¹⁰ *NOI* at ¶ 12 (quoting CTIA, *The Who, What and Why of “Calling Party Pays,”* at 11 (July 4, 1997)).

¹¹ See *NOI* at ¶ 11 (“We . . . request any studies that attempt to isolate the effect of CPP from other variables.”); *id.* at ¶ 12 (“In particular, we seek empirical studies that have documented the effects of CPP on subscribership, traffic patterns, . . . and minutes of use in the markets in which CPP has been implemented.”); *Id.* at ¶ 14 (“We also seek any empirical studies and information on whether [CPP] encourages consumers to subscribe to mobile telephony services, . . . to disclose their mobile telephone number, and to keep their mobile telephone in an active operational mode.”).

¹² See Comments of SBC at 7 (“Although several carriers have offered CPP, the results are inconclusive at best.”); GTE at 12 (finding that the benefits attributed to CPP are “speculative at best”); Sprint Spectrum L.P. at 2 (“At present, there is no direct evidence of CPP’s ability to foster competition in the United States”); Vanguard Cellular Systems, Inc. (“Vanguard”) at 6 (“[T]here is little empirical experience with CPP in the U.S.”). For example, Sprint Corporation discussed its experience with CPP in Charlottesville, Virginia, noting that out of the 95,000 customers it serves, approximately 3,500 subscribe to CPP averaging only 5 calls per month, a relatively minor amount for an option available since 1990. GTE noted its CPP offering in Hawaii “has never been particularly successful,” and therefore “GTE does not have enough data to determine what effect, if any, CPP might have on traffic flows, subscribership, digital service, etc.” U S West similarly

Some parties mistakenly relied upon the international CPP model to reach the erroneous conclusion that CPP will either stimulate wireline competition or increase wireless usage in the United States.¹³ BellSouth showed in its comments, however, and SBC and PageNet agree, that such reliance is misplaced due to significant differences between the international and domestic markets.¹⁴ Given the lack of hard evidence that CPP will either increase usage or stimulate competition in the United States,¹⁵ the comments fail to establish any basis for proceeding with a rulemaking.

Finally, the vast majority of commenters who addressed CPP implementation problems support industry resolution rather than FCC regulatory intervention.¹⁶ As several parties noted, the expense of implementing CPP may not outweigh the benefits.¹⁷ Industry participants should be

noted that even though CPP is in use in several states in its territory, it has no studies or data regarding the wireless demand stimulating effects of CPP in those markets. *See* Comments of Sprint Corporation at 5-6; GTE at 8-9; U S West, Inc. (“U S West”) at 4-5, 9 n.15; *see also* BellSouth Corporation (“BellSouth”) at 3.

¹³ *See, e.g.*, Comments of Nokia Telecommunications, Inc. at 2-3; Sprint Spectrum L.P. at 2-4; Vanguard at 6-9.

¹⁴ *See* Comments of BellSouth at 6-7; SBC at 13-16; PageNet at 6-7.

¹⁵ The Commission also sought evidence on whether CPP “would enable CMRS providers to more readily compete with wireline services provided by LECs.” *NOI* at ¶ 1. BellSouth agrees with USTA that the Commission should avoid viewing CPP as a panacea to hypothetical local exchange problems. *See* Comments of USTA at 2; *see also* Comments of GTE at 10 (noting that the FCC should not look to CPP as a means of promoting CMRS as an alternative to wireline local exchange service); Centennial Cellular Corporation (“Centennial”) at 1 (expressing skepticism CPP would promote CMRS as an alternative to traditional landline service).

¹⁶ *See, e.g.*, Comments of AirTouch Communications, Inc. at 25-27 (noting that industry must address leakage and other technical problems, and no government action is needed in this area); Bell Atlantic at 3 (arguing that industry needs to minimize opportunities for leakage); GTE at 17 (proposing the adoption of industry standards for CPP with FCC endorsement); SBC at 11 (finding that the best way to resolve the “significant practical and technical implementation problems associated with CPP” is “through discussions between carriers”); Source One Wireless II, L.L.C. at 6 (submitting that industry should set standards with FCC encouragement); Sprint Corporation at 2 (opining that industry should identify standards for CPP, with the Commission involved only as a facilitator); USTA at 2, 6 (asserting that “industry standard setting forums, not Commission regulation, should be the means for developing technical standards and resolving billing format issues related to CPP”); U S West at 6-9 (supporting an industry coalition to achieve CPP solutions, not regulatory mandates).

¹⁷ *See* Comments of Centennial at 18-19; GTE at 12; *see also* BellSouth at 6.


allowed to make the determination of whether or not to implement a CPP service option. If CPP is economically justified, then CPP providers and carriers will have the market incentive to enter into agreements for the exchange of billing data and to resolve other technical problems (e.g., number portability and leakage).¹⁸

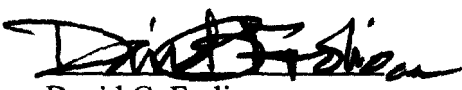
CONCLUSION

Accordingly, BellSouth urges the Commission to conclude this inquiry without initiating a rulemaking.

Respectfully submitted,

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¹⁸ As GTE notes, "offering CPP requires CMRS carriers to incur certain costs. These costs include the costs of arranging for call billing and collection, and either upgrading or in some cases replacing network facilities or contracting for some form of call identification. *The decision to incur these costs is a market-based decision that depends upon an evaluation of the benefits that may be provided by CPP weighed against the costs.* The FCC should not substitute regulation for market-based decisionmaking, especially in the case of CPP, where the benefits the Commission hopes to achieve are speculative at best." Comments of GTE at 12 (emphasis added).

CERTIFICATE OF SERVICE

I, Crystal M. Clay, hereby certify that on this 16th day of January, 1998, copies of the foregoing "Reply Comments of BellSouth" in WT Docket No. 97-207 were served by first class United States mail, postage prepaid, on the following:

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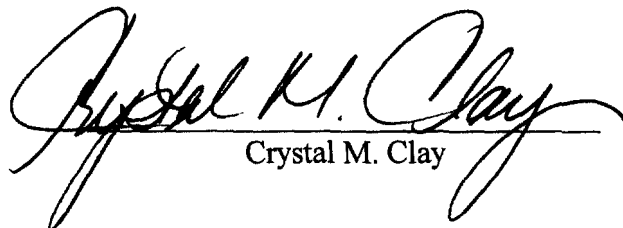
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